

In the Matter of Merchant Mariner's Document No.Z-249843-D2 and all other Licenses,
Certificates and Documents

Issued to: JOSE FIGUEROA

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

936

JOSE FIGUEROA

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 12 April 1956, an Examiner of the United States Coast Guard at New York, New York revoked Merchant Mariner's Document No. Z-249843-D2 issued to Jose Figueroa upon finding him guilty of misconduct based upon nine specifications alleging in substance that while serving as a utilityman on board the American SS MOBILIAN under authority of the document above described, while said vessel was on a foreign voyage, he wrongfully failed to turn to by reason of being under the influence of alcohol on 27 April 1955 and 14 June 1955; he wrongfully engaged in a fight with fellow crew members on 30 April 1955; he wrongfully created disturbances on 14 May 1955 and 18 May 1955; he wrongfully disobeyed a direct order of the Master to turn in on 7 June 1955; he wrongfully addressed the Master and Fourth Officer with vile and obscene language on 7 June 1955; and he wrongfully failed to maintain his messroom in proper condition on 9 and 10 July 1955.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own choice, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "not guilty" to the charge and each specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and introduced in evidence certified copies of entries in the Official Logbook of the MOBILIAN. Appellant testified in his defense. He stated that he was unjustly abused by the Master and Chief Steward.

At the conclusion of the hearing, having heard the argument of the Investigating Officer and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his decision and concluded that the charge and nine specifications had been proved. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-249843-D2 and all other licenses, certificates and documents issued to Appellant by the United States

Coast Guard or its predecessor authority.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On a foreign voyage including the dates between 26 April 1955 and 11 July 1955, Appellant was serving as a utilityman on board the American SS MOBILIAN and acting under authority of his Merchant Mariner's Document No. Z-249843-D2.

On 27 April 1955 while the vessel was at Nordenham, Germany, Appellant wrongfully failed to turn to at 0630 while under the influence of alcohol.

At the same port on 30 April 1955, Appellant returned on board at 0430 in an intoxicated condition and wrongfully engaged in a fight with other members of the crew in the crew's messroom. Appellant was taken to jail by the local police until 1430.

While the ship was at Bassens, France, Appellant created a disturbance in a passageway at 0300 on 14 May while under the influence of alcohol. At 0200 on 18 May, Appellant was in the same condition when he created a disturbance in the crew's messroom.

The ship was in the port of St. Nazaire, France, on 7 and 14 June 1955. At 0230 on 7 June, Appellant called the Master and demanded night lunch since the icebox was empty. Appellant was under the influence of alcohol. He refused to turn in when ordered to do so by the Master. Appellant was taken to his room but he was again in the messroom about 10 minutes later. At 0635, Appellant addressed the Master with vile and obscene language upon Appellant's refusal to get out of his bunk. The Fourth Officer was on deck on watch at 1630 when he told Appellant to leave the deck. Appellant addressed the Fourth Officer with filthy and obscene language until Appellant had been led off the deck.

On 13 June 1955, Appellant returned to the ship at 2345 under the influence of alcohol. At 0630 on 14 June, Appellant refused to turn to. A physician examined Appellant and issued a written statement that Appellant should not drink alcoholic beverages.

On 19 July 1955 while at Leghorn, Italy, and on 10 July 1955 at sea, Appellant left his messroom in a dirty and unsanitary condition. Appellant had been warned repeatedly about such conduct.

Appellant's prior record consists of an admonition in 1944 for absence without leave.

BASIS OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant states that

he will remain sober and fit for duty on board ship if his document is returned to him.

Appellant requests consideration on the ground that the order of revocation is a hardship on his family since he has no other livelihood.

OPINION

The evidence shows that the numerous offenses committed within a period of three months were almost entirely the result of Appellant's overindulgence in intoxicating beverages. Appellant displayed a complete disregard for discipline to the extent of abusing the authority of the Master, refusing to perform the duties he became obligated for when he signed the Shipping Articles and otherwise disrupting order on the ship. Appellant's often repeated offenses of the same nature justify the order of revocation despite the resulting hardship and Appellant's promises for the future. Hence, consideration will not be given to Appellant's request to return his document at this time.

ORDER

The order of the Examiner dated at New York, New York, on 12 April 1956, ~~is~~ **AFFIRMED**.

A. C. Richmond
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D.C., this 27th day of November, 1956.